

BULLETIN

**Stewart Title Guaranty Company
Stewart Title Insurance Company
Stewart Title Insurance Company of Oregon
National Land Title Insurance Company
Arkansas Title Insurance Company
Alliance Title of America, Inc.**

SLS00345

Date: February 21, 2007
To: All Issuing Offices
From: Stewart Legal Services
RE: Federal Reporting Update: Modified 1099-S Reporting on Sales of Principal Residences

Dear Associates:

The "Taxpayers Relief Act of 1997" generally allows taxpayers, on the sale or exchange of a principal residence, to exclude up to \$250,000 of gain individually or \$500,000 of gain if a married couple filing jointly. The exclusion may be used once every two years. The land must have been used as a principal residence for two of the last five years.

In order to comply with recent changes in the law, the seller certification has been modified effective January 22, 2007. The American Jobs Creation Act of 2004 and the Gulf Opportunity Zone Act of 2005 provide that the exclusion for gain does not apply if the principal residence was acquired in a like-kind exchange for which gain was not recognized under Section 1031(a) or (b) of the Internal Revenue Code within the last five years.

"Real Estate Reporting Persons" do not need to file a 1099-S on sales or exchanges of principal residences, if:

- The sales price is at or below \$250,000 if the seller is a single individual, or \$500,000 if the seller is married.
- The Real Estate Reporting Person secures a certification from the sellers in form acceptable to the IRS.
- The Real Estate Reporting Person retains the certification for four years after the year of the sale or exchange of the residence.

The Real Estate Reporting Person usually is the settlement agent on the HUD-1.

The IRS has now approved a modified seller certification, which is available for use on and after January 22, 2007. The certification has three parts, which must be completed by each seller: Part I (name, address or legal description of the residence being sold, and taxpayer identification number); Part II (regarding use and ownership of the property); and Part III (seller's signature). The sellers must say "true" to each question in Part II (or "not applicable" to assurance (6)), or you cannot rely on the certification.

If there are multiple sellers, you must obtain a certification from each seller or report on that seller.

If one of the sellers does not complete the certification (and say "yes" to each question in Part II), you must do 1099-S reporting on that person. In that case you must request an allocation of the sales price among the sellers. If no allocation is given, you must show the entire sales price on the 1099-S reporting on that person who does not complete the certification.

THIS BULLETIN IS FURNISHED TO INFORM YOU OF CURRENT DEVELOPMENTS. OUR UNDERWRITING AGREEMENTS DO NOT AUTHORIZE OUR ISSUING AGENTS TO ENGAGE IN SETTLEMENTS OR CLOSINGS ON BEHALF OF STEWART TITLE GUARANTY COMPANY. THIS BULLETIN IS NOT INTENDED TO DIRECT YOUR ESCROW OR SETTLEMENT PRACTICES OR TO CHANGE PROVISIONS OF APPLICABLE UNDERWRITING AGREEMENTS.

Note: Please distribute this bulletin to the appropriate associates.

REFERENCES:

Bulletins Replaced:

NL000062 Federal Reporting Update: 1099-S Reporting on Sales of Principal Residences

Related Bulletins:

NL000009 1099-S Reporting\Real Estate Transactions\Regulations Effective January 1, 1991

NL000016 Form 1099-S Reporting

NL000057 Federal Reporting Update: 1099-S, FIRPTA, and Over \$10,000 Cash

Underwriting Manual:

None.

Exceptions Manual:

None.

Forms:

STG Certification for No Information Reporting on the Sale or Exchange of a Principal Residence

EXHIBIT 1

CERTIFICATION FOR NO INFORMATION REPORTING ON THE SALE OR EXCHANGE OF A PRINCIPAL RESIDENCE

This form may be completed by the seller of a principal residence. This information is necessary to determine whether the sale or exchange should be reported to the seller, and to the Internal Revenue Service on Form 1099-S, *Proceeds From Real Estate Transactions*. If the seller properly completes Parts I and Part III, and makes a "true" response to assurances (1) through (6) in Part II (or a "not applicable" response to assurance (6)), no information reporting to the seller or to the Service will be required for that seller. The term "seller" includes each owner of the residence that is sold or exchanged. Thus, if a residence has more than one owner, a real estate reporting person must either obtain a certification from each owner (whether married or not) or file an information return and furnish a payee statement for any owner that does not make the certification.

Part I. Seller Information

- 1. Name
- 2. Address or legal description (including city, state, and ZIP code) of residence being sold or exchanged.
- 3. Taxpayer Identification Number (TIN)

Part II. Seller Assurances

Check "true" or "false" for assurances (1) through (5), and "true", "false", or "not applicable" for assurance (6).

True False

- (1) I owned and used the residence as my principal residence for periods aggregating 2 years or more during the 5-year period ending on the date of the sale or exchange of the residence.
- (2) I have not sold or exchanged another principal residence during the 2-year period ending on the date of the sale or exchange of the residence.
- (3) I (or my spouse or former spouse, if I was married at any time during the period beginning after May 6, 1997, and ending today) have not used any portion of the residence for business or rental purposes after May 6, 1997.
- (4) At least one of the following three statements applies:

The sale or exchange is of the entire residence for \$250,000 or less

OR

I am married, the sale or exchange is of the entire residence for \$500,000 or less, and the gain on the sale or exchange of the entire residence is \$250,000 or less.

OR

I am married, the sale or exchange is of the entire residence for \$500,000 or less, and (a) I intend to file a joint return for the year of the sale or exchange, (b) my spouse also used the residence as his or her principal residence for periods aggregating 2 years or more during the 5 year period ending on the date of the sale or exchange of the residence, and (c) my spouse also has not sold or exchanged

another principal residence during the 2-year period ending on the date of the sale or exchange of the principal residence.

- (5) During the 5-year period ending on the date of the sale or exchange of the residence, I did not acquire the residence in an exchange to which section 1031 of the Internal Revenue Code applied.

True False N/A

- (6) If my basis in the residence is determined by reference to the basis in the hands of a person who acquired the residence in an exchange to which section 1031 of the Internal Revenue Code applied, the exchange to which section 1031 applied occurred more than 5 years prior to the date I sold or exchanged the residence

Part III. Seller Certification

Under penalties of perjury, I certify that all the above information is true as the end of the day of the sale or exchange.

Signature of Seller

Date

NOTE: REAL ESTATE REPORTING PERSON MUST RETAIN THIS CERTIFICATION FOR FOUR YEARS AFTER THE YEAR OF THE SALE OR EXCHANGE.